UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHERNOF VILHAUER MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND OR 97204-3157

COPY MAILED

FEB 1 5 2007

OFFICE OF PETITIONS

In re Application   : DECISION ON APPLICATION
Kenneth Minton   : FOR PATENT TERM ADJUSTMENT
Application No. 10/695,066 :
Filed: October 27, 2003   :
Patent No. 6,969,606   :
Issued: November 29, 2005   :

This is a decision on the "APPLICATION FOR PATENT TERM
ADJUSTMENT", filed November 28, 2005. Patentee requests that the
determination of patent term adjustment under 35 U.S.C. 154(b) be
corrected from zero (0) days to one hundred seventy-five (175)
days.

The application for patent term adjustment is **DISMISSED**. Patentees are
given 30 Days h reply to this decision.

On November 29, 2006, the above-identified application issued
into patent No. 6,969,606. The patent stated that the patent
term adjustment (PTA) is zero (0) days. On November 28, 2005,
patentee timely submitted an application for patent term
adjustment, asserting that the correct number of days of PTA is
one hundred seventy-five (175) days.

Patentee asserts entitlement to a patent term adjustment under
37 C.F.R. §1.703(a)(6), on the basis that the patent issued more
than four months after payment of the issue fee.

The Office determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of zero (0) days, reduced by one hundred seven (107) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(10).

A review of the application file reveals that the issue fee was paid on May 5, 2005 (together with a petition to withdraw the holding of abandonment). Patentee state that he paid the issue fee on February 7, 2005. However, patentee has supplied no USPTO date stamped postcard receipt, evidencing the issue fee filing on that date. Rather, on May 5, 2005, applicant supplied the issue fee, made timely for purposes of abandonment by including a Certificate of Mailing dated February 7, 2005. However, under 37 C.F.R. 1.704(f), a Certificate of Mailing is not taken into account in the determination of patent term adjustment. The instant patent issued on November 29, 2005. Accordingly, PTO delay of eighty-five (85) days should be assessed under 37 C.F.R. §1.703(a)(6), from May 6, 2005 to November 29, 2005.

With respect to the one hundred seven (107) days of applicant delay assessed, this delay has been reviewed and found to be correct. The PTO has stated that the filing of status letters will constitute a "failure to engage".[1]

In view thereof, the correct determination of patent term adjustment at the time of issuance of the patent is **zero (0) days** (85 days of PTO delay, reduced by 107 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
  for Patent Examination Policy

---

[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

703(a)(6) Dismissed   Cliff

PALM INTRANET

PTA Calculations for Application: 10/695066

Application Filing Date:	10/27/2003	PTO Delay (PTO):	~~0~~ 85
Issue Date of Patent:	11/29/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	107
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
43	11/29/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	85		
42	11/03/2005	RECEIPT INTO PUBS			
41	11/03/2005	DISPATCH TO FDC			
40	~~08/30/2005~~	ISSUE FEE PAYMENT VERIFIED 5/5/05			
39	10/31/2005	RECEIPT INTO PUBS			
38	10/21/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
37	10/21/2005	PETITION TO REVIVE APPLICATION - GRANTED			
36	05/05/2005	PETITION ENTERED			
35	02/07/2005	ISSUE FEE PAYMENT VERIFIED			
34	10/20/2005	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
33	08/30/2005	ISSUE FEE PAYMENT RECEIVED			
32	08/15/2005	MISCELLANEOUS INCOMING LETTER		107	
31	04/26/2005	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
30	04/26/2005	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
29	04/25/2005	RECEIPT INTO PUBS			
28	12/21/2004	EXPORT TO INITIAL DATA CAPTURE			
27	12/29/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
26	12/14/2004	MAIL NOTICE OF ALLOWANCE			
25	12/13/2004	ISSUE REVISION COMPLETED			
24	12/13/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	12/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
22	12/13/2004	NOTICE OF ALLOWABILITY			
21	12/09/2004	DATE FORWARDED TO EXAMINER			
20	11/17/2004	RESPONSE AFTER NON-FINAL ACTION			
19	11/17/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	11/03/2004	MAIL NON-FINAL REJECTION			
17	11/01/2004	NON-FINAL REJECTION			
16	02/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	02/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	12/19/2003	REFERENCE CAPTURE ON IDS			
13	12/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

12	01/28/2004	APPLICATION RETURN FROM OIPE			
11	01/28/2004	APPLICATION RETURN TO OIPE			
10	01/28/2004	APPLICATION RETURN FROM OIPE			
9	01/29/2004	APPLICATION IS NOW COMPLETE			
8	01/28/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
7	01/27/2004	APPLICATION RETURN TO OIPE			
6	01/27/2004	APPLICATION DISPATCHED FROM OIPE			
5	01/28/2004	APPLICATION IS NOW COMPLETE			
4	01/20/2004	CLEARED BY OIPE CSR			
3	01/20/2004	CASE CLASSIFIED BY L&R			
2	11/30/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/27/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [   ] | Search |

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page